IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 183 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 26/07/2004 in WP NO : 4967 OF 2004 on the file of the High Court.)

Between:

1 The Adilabad District Co.operative Central Bank Bank Ltd. Rep by its General Manager, Adilabad.
2 The General Manager, Adilabad District Co.operative Central Bank Ltd., Adilabad.

..... APPELLANT(S)

AND

D. Hanumantha Rao, S/o. Laxmipathi,
R/o. Mancherial, Adilabad District.

.....RESPONDENT

Counsel for the Appellant:MR.P.NAGESWAR SREE

Counsel for the Respondent No.: MR.S.LAKSHMA REDDY

The Court made the following :

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ORDER: (Per the Honourable Sri Justice S.Ananda Reddy)

This writ appeal is filed by the respondent-Bank in the writ petition aggrieved by the order of the learned single Judge in allowing the writ petition filed by the writ petitioner-respondent herein holding that the continuance of disciplinary proceedings pursuant to the chargesheet dated 14.12.2000 have no legality, with a consequential direction to release the benefits to the petitioner including the amount of Rs.25,000/- recovered from the petitioner, in accordance with law.

The respondent herein is the writ petitioner.

According to the appellant, as the charge memo was issued even before retirement, the continuance of the disciplinary proceedings even after retirement, is in accordance with law.

It is also contended by the learned counsel that as per the order allowing the writ petitioner to retire was subject to the disciplinary proceedings already initiated and therefore, the appellant employer is entitled to proceed with the enquiry and the said enquiry ultimately resulted in imposition of penalty of Rs.25,000/-, which was in fact recovered from the writ petitioner. Therefore, the learned single Judge was not justified in allowing the writ petition.

The learned counsel appearing on behalf of the writ petitioner, however, supports the order of the learned single Judge and relies upon the judgment of the Apex Court in the case of BHAGIRATHIJENA VS. BOARD OF DIRECTORS, O.S.F.C.().

The Apex Court held in the above decision that in the absence of specific provision for the continuance of the disciplinary proceedings after retirement, the enquiry would lapse and therefore, there could be no recovery proceedings.

The learned counsel also relied upon the judgment of the Division Bench of this Court reported in GENERAL MANAGER, ADILABAD DISTRICT CO OPERATIVE CENTRAL BANK LIMITED, ADILABAD VS. K.RANGARAO AND ANOTHER ()

Heard both sides and considered the material on record.

At the time of hearing, for a specific question, the learned counsel appearing for the

appellant, is not able to show any specific provision which empowers the employer to continue the disciplinary proceedings after retirement of the writ petitioner-employee.

In the absence of any specific provision to that effect, the continuance of disciplinary proceedings, is illegal and therefore, the learned single Judge was right in holding that the continuance of the disciplinary proceedings as well as the conclusion of proceedings against the writ petitioner, would not have any affect as the proceedings initiated against the writ petitioner, would lapse on his retirement.

Under the above circumstances and in the light of the above referred decision of the Apex Court, We do not find any merits in the writ appeal.

Accordingly, this writ appeal is dismissed. However, 4 (four) Weeks time is granted to the appellant to refund the amount recovered from the writ petitioner as well as to pay any other amounts due to the writ petitioner.

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Justice T.Meenakumari

Date : 08th February, 2005

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Justice S. Ananda Reddy

Dvs/Gurc.

Copies to:

1. The General Manager, Adilabad District Co.operative Central Bank Ltd., Adilabad.

2. Two CD copies.

THE HONOURABLE SMT. JUSTICE T. MEENA KUMARI

&

THE HONOURABLE SRI JUSTICE S.ANANDA REDDY

W.A.No.183 of 2005

(Judgment delivered by the Honourable Sri Justice S.Ananda Reddy)

08th February, 2005